

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Application of Pacific Gas and Electric Company  
for Adoption of its 2004 Energy Resource  
Recovery Account (ERRA) Forecast Revenue  
Requirement, for Review of Contract  
Administration, Least Cost Dispatch and  
Procurement Activities during the Record Period  
January 1, 2003, Through May 31, 2003, and for  
Approval of its 2004 Ongoing Competition  
Transition Charges (CTC) Revenue Requirement  
and Proposed Rate Design. (U 39 E)

Application 03-08-004  
(Filed August 1, 2003)

**ADMINISTRATIVE LAW JUDGE'S RULING REGARDING  
VARIOUS COMPETITION TRANSITION CHARGE ISSUES**

**Summary**

Today's ruling addresses the admission of eight proposed exhibits into evidence, and the briefing schedule for the Competition Transition Charge (CTC) issues that were litigated on April 5 and 7, 2004. The ruling also addresses the April 23, 2004 motion of Pacific Gas and Electric Company (PG&E) to file the unredacted version of Table 9-5 under seal.

**Background**

During the April 7, 2004 evidentiary hearings, PG&E witness John Pappas testified that he might have to correct his testimony to reflect that some qualifying facility contracts should not be included in the calculation of the CTC. The date of April 23, 2004 was set for possible corrections to Pappas' testimony, and May 3, 2004 was set as the date for the other parties to notify PG&E and the

undersigned whether additional hearings on the corrections would be needed. (2 R.T. at pp. 91-95, 115-116.)

On April 23, 2004, PG&E submitted its “Errata ... To Prepared Testimony on Forecast Issues” (Errata). The Errata consists of various changes to the text and tables contained in Exhibits 1 and 2. Concurrent with the submission of PG&E’s Errata, PG&E filed a motion to file under seal an unredacted version of the Table 9-5 Errata.

Prior to the May 3, 2004 notification date, counsel for the Merced Irrigation District requested that the issue of whether additional hearings would be needed on the April 23 Errata be discussed at the May 3, 2004 prehearing conference.<sup>1</sup> That request was granted. At the May 3 prehearing conference, PG&E, the Merced Irrigation District and the Modesto Irrigation District requested that they be given an additional week to determine whether hearings on the Errata would be needed, or if additional exhibits containing data responses about the Errata, would be needed.<sup>2</sup>

On May 10, 2004, counsel for the Modesto Irrigation District notified the undersigned that based on the responses to data requests concerning the Errata, the two irrigation districts would not be requesting further hearings on the CTC

---

<sup>1</sup> The May 3 prehearing conference was originally scheduled to discuss the issues concerning the record review period for the first five months of 2003, and the procedural schedule for the remaining seven-month period of 2003.

<sup>2</sup> At the May 3, 2004 prehearing conference, the dates for filing opening and reply briefs on the 2003 record review period for the first five months was established. PG&E’s May 18, 2004 letter states in footnote 2 that it is not requesting a change in the filing dates for this record review period. Accordingly, opening briefs are to be filed on May 27, 2004, and reply briefs on June 10, 2004, for this five-month record period. A separate ruling on the procedural schedule for the record review period for the remaining seven months of 2003 will be issued in the future.

issue. Counsel also stated that data responses from PG&E concerning the Errata would be included as part of the late-filed exhibits, and that the parties would propose a briefing schedule.

On May 18, 2004, PG&E, with the agreement of the two irrigation districts, submitted a letter to the undersigned requesting that eight proposed exhibits be admitted into evidence, and that opening briefs on the CTC phase of this proceeding be electronically served on June 10, 2004, and that reply briefs be electronically served on June 24, 2004. The irrigation districts also request that they be permitted to file their opening and reply comments with the Commission's Docket Office on the day following electronic service, *i.e.*, June 11 and June 24.

#### **Motion to File Under Seal**

PG&E's April 23, 2004 motion to file Table 9-5 of the Errata under seal states that the table contains "commercially sensitive, confidential and proprietary information on PG&E's new power purchase costs." PG&E further states that maintaining "the confidentiality of this information is critical to protecting PG&E's ability to function effectively in the energy markets," and if "this information were to fall into other market participants' hands, it could and would be used to take advantage of PG&E as it seeks to secure and execute transactions to acquire energy products, dispose of long positions, and achieve least cost management of PG&E's electric energy portfolio in 2004 and beyond." (Motion, p. 2.) PG&E points out that this same kind of information has been protected in other proceedings, and in this proceeding as a result of the February 19, 2004 administrative law judge's ruling.

No one opposed PG&E's motion.

The table which PG&E seeks to file under seal contains the same type of information which was placed under seal in accordance with the February 19, 2004 ruling. The April 23, 2004 motion of PG&E to file under seal the unredacted version of Table 9-5 of the April 23, 2004 Errata should be granted.

### **Additional Exhibits**

PG&E's May 18, 2004 letter requests that eight exhibits be admitted into evidence. The letter represents that the two irrigation districts agree to the admission of these exhibits.

The first proposed exhibit, which PG&E refers to as Exhibit 15,<sup>3</sup> is PG&E's April 23, 2004 Errata. Footnote 1 of the letter notes that Line 4 of Table 9-2 of the Errata contained an error, and that a corrected Table 9-2 is attached to the letter. The footnote also notes that a part of the Errata is the unredacted version of Table 9-5 of the Errata, which has been discussed in the previous section.

The public version of the April 23, 2004 Errata, using the corrected Table 9-2 that was attached to the May 18, 2004 letter, shall be marked as Exhibit 18 and received into evidence. The unredacted version of Table 9-5 of the Errata, which is to be filed under seal as discussed above, shall be separately marked as Exhibit 19 and received into evidence and kept under seal.

The remaining seven proposed exhibits are PG&E's data responses to seven separate questions propounded by the two irrigation districts. PG&E's letter refers to these seven exhibits as Exhibits 16 through 22. Each of the seven

---

<sup>3</sup> PG&E's letter refers to the eight proposed exhibits as Exhibit 15 through Exhibit 22. However, since the evidentiary hearings regarding the CTC issues have already used Exhibits 15 through 17, the eight proposed exhibits will be assigned new exhibit numbers.

data responses shall be separately marked as Exhibits 19, 20, 21, 22, 23, 24, and 25, respectively, and shall be received into evidence.

### **Briefing Schedule**

PG&E and the two irrigation districts have agreed to the briefing schedule for the CTC issues that were the subject of the April 2004 hearings and this ruling.

Opening briefs shall be filed with the Docket Office on June 11, 2004, and reply briefs shall be filed on June 25, 2004. Any party that is planning to file opening or reply briefs concerning the CTC issues, shall serve their brief electronically on the service list one day prior to the filing date, *i.e.*, on June 10, 2004 and June 24, 2004.

The CTC issues that were litigated shall be submitted following the filing of the reply briefs on June 25, 2004.

### **IT IS RULED** that:

1. The April 23, 2004 motion of Pacific Gas and Electric Company (PG&E) to file the unredacted version of Table 9-5 under seal is granted.
  - a. The unredacted version of Table 9-5, which was attached to PG&E's motion, shall remain sealed.
2. The following exhibits shall be marked and received into evidence in this proceeding:
  - a. PG&E's April 23, 2004 "Errata . . . To Prepared Testimony On Forecast Issues," as corrected by Table 9-2 attached to PG&E's May 18, 2004 letter, shall be identified as Exhibit 18.
  - b. PG&E's unredacted version of Table 9-5, which was attached to PG&E's April 23, 2004 motion to file under seal, shall be identified as Exhibit 19 and shall be placed under seal.

- c. PG&E's data response to Question 1 of the two irrigation districts shall be identified as Exhibit 20.
- d. PG&E's data response to Question 2 of the two irrigation districts shall be identified as Exhibit 21.
- e. PG&E's data response to Question 3 of the two irrigation districts shall be identified as Exhibit 22.
- f. PG&E's data response to Question 4 of the two irrigation districts shall be identified as Exhibit 23.
- g. PG&E's data response to Question 5 of the two irrigation districts shall be identified as Exhibit 24.
- h. PG&E's data response to Question 6 of the two irrigation districts shall be identified as Exhibit 25.
- i. PG&E's data response to Question 7 of the two irrigation districts shall be identified as Exhibit 26.

3. Parties planning to file opening and reply briefs on the Competition Transition Charge (CTC) issues that were litigated in April 2004 shall comply with the following:

- a. Opening briefs shall be filed with the Commission's Docket Office on June 11, 2004.
- b. Reply briefs shall be filed with the Commission's Docket Office on June 25, 2004.
- c. Any party planning to file opening or reply briefs concerning the CTC issues, shall serve their brief electronically on the service list one day prior to the filing date, *i.e.*, on June 10, 2004 and June 24, 2004.

4. The CTC issues litigated in the April 2004 hearings shall be submitted on June 25, 2004.

Dated May 25, 2004, at San Francisco, California.

/s/ John S. Wong  

---

John S. Wong  
Administrative Law Judge

## CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Regarding Various Competition Transition Charge Issues on all parties of record in this proceeding or their attorneys of record.

Dated May 25, 2004, at San Francisco, California.

/s/ Antonina V. Swansen  
Antonina V. Swansen

## N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

\*\*\*\*\*

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, *e.g.*, sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.